

**Malika Abdul-Basir - FW: Written testimony re: HB's 4542, 4543, 4544**

**From:** "Randy Miller" <rmiller@rsmalaw.com>  
**To:** <mabdul@house.mi.gov>  
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**Subject:** FW: Written testimony re: HB's 4542, 4543, 4544

My name is Randall Miller, and I am the senior partner in Randall S. Miller & Associates, P.C. According to attorneys that represent borrowers, my firm is one of the "big five" foreclosure firms in the state of Michigan. Like the other firms that represent the mortgage banking industry, we have vast experience in the mortgage mediation arena pursuant the changes made to MCLA 600.3204 et seq in July of 2009. I have reviewed the proposed legislation found in House bills 4542, 4543, and 4544 and offer the following as both commentary and advice:

- 1) Roughly 80% of borrowers contact us directly, without ever having spoken to a housing counselor. Despite the letter of the law, we (and the other firms) have always allowed the borrowers 24 days to contact our office to request a mediation. That time frame is based on the combination of the 14 and 10 day periods that the statute provides respectively for the borrowers to contact a housing counselor, and the counselor to contact us. There is virtually no difference in the success rate of mediations if borrowers represent themselves, or are represented by a counselor. If anything, counselors have given a lot of bad advice, and the success rate may actually be slightly lower for those who are represented. We do not keep such statistics in our office, but may pay closer attention in the future. I cannot state whether the counselors that have given bad advice are on the approved list or not at this point, but applaud the proposals inclusion of criminal penalties to those the take money from borrowers for performing such services. We have heard many stories of people being swindled by people "guaranteeing" a modification on a borrowers behalf, and I personally feel that such predators should be dealt with in very harsh terms. Having said that, there should be clarity in the statute regarding the timeframe that contact may be made. I suggest eliminating the separation between the time a borrower has to contact either the designee or a counselor, and the time a counselor has to contact the designee. One time frame would make things much clearer for everyone involved. The notification letters and publication can be amended to state that borrowers wishing to contact a housing counselor are encouraged to do so at least 10 days before the expiration of the stated time period, or something to that effect. Also, my firm has always accepted telephone requests as if they were in writing. However, it is clear that a borrower could always challenge a firm stating that they called when they really didn't. I suggest maintaining a standard requiring written requests, as it alleviates any fraudulent claims of phone calls made but not accounted for. However, I felt it important for the committee to know that we all do our best to accommodate the borrowers and err on their side when they are requesting a meeting.
- 2) While our clients will gladly welcome shortened redemption periods, and the change from the 3 or more acre standard to one that provides a 12 month redemption period for land being used for agricultural purposes is a move in the right direction. (600.3240 (8), such a characterization provides other difficulties. The law requires us to publish, amongst other information, the redemption period. If a borrower has an opportunity after publication commences to alter the redemption period based on the presentation of a Schedule F to their Federal tax returns, the published date would be incorrect. The only way we would be able to correctly publish would be to state something along the lines of "the redemption period shall be 3 months unless borrower provides the law firm with a copy of a filed Schedule F from the previous year's Form 1040 of their IRS tax return prior to the date of foreclosure

sale". Also note that by having a time frame that is changeable once the sale has been scheduled may discourage third party bidders from bidding at foreclosure sales, as they will not know what time period applies to their bid until they get to the sale itself. While third party bids are not that prevalent at this point, they will increase as the economy begins to rebound. Five years ago, third party bids were extremely common, and we expect those numbers to rise again. Third party investors are a great benefit to our clients, and we certainly do not want to discourage the number of bids such investors may submit.

- 3) Thank you for including a time limit for document submission. It is an issue I had been in contact with the committee about in the past, and am glad to see it addressed. This change prevents borrowers from submitting documents on the 89<sup>th</sup> day, after claiming they wanted a meeting, which is something that occurred far too often, along with those that claimed they wanted a meeting and never submitted any documentation. This change will reduce the number of individuals who have been abusing the intent of the original legislation.

I appreciate your attention to the above and the work that you are all doing. If anyone would like to contact me for further thoughts or information, I may be contacted at the number and/or email address below. Thank you.

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